

**DEPARTMENT OF REAL ESTATE**

PO Box 187000

Sacramento, CA 95818-7000

916 227-0770



March 17, 2009

Berg Consulting Group Inc  
Allen S. Berg, Designated Officer  
5950 Canoga Ave Suite 610  
Woodland Hills, CA 91367

Re: Advance Fee Agreement

This letter will acknowledge our receipt of your advance fee agreement and accounting format on February 27, 2009.

The Department has no objection to your use of the advance fee agreement and accounting format as submitted.

Please note that any changes to the agreement or the accounting format must be submitted to the Department for review before it is used. Any promotional materials that you may subsequently wish to use will require our prior review, as well. This includes press releases and announcements related to your advance fee activities.

This letter does not constitute, nor may you make any representation that the Department of Real Estate has endorsed or approved any aspect of your business activities.

Sincerely,

Sylvia I. Yrigollen  
Senior Deputy Commissioner  
Advance Fee Review Section

## ADVANCE FEE AGREEMENT FOR LOAN MODIFICATION SERVICES

This ADVANCE FEE AGREEMENT FOR LOAN MODIFICATION SERVICES (this "agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Real Estate Broker BERG CONSULTING GROUP INC. (insert name) (the "Broker") and the Principal(s) \_\_\_\_\_ (insert name(s) of the borrower(s)/principal(s) represented in this agreement) (the "Principal") for the mortgage loan modification services as described herein.

DBA THE LOAN MODIFIER.NET

### A. PRELIMINARY MATTERS.

#### 1. IMPORTANT NOTICES TO THE PRINCIPAL:

- a. The amount or rate of fees specified in this agreement for services is not fixed by California law. Fees are set or established by each Broker individually and are subject to negotiation between the Principal and the Broker.
- b. The Principal is compensating the Broker for services the Principal may be able to obtain at no charge from a housing counselor or by contacting the Lender(s) directly.
- c. Brokers are licensed by the California Department of Real Estate. The Department provides public information regarding its licensees, including the current license status and applicable disciplinary history (if any discipline has been imposed or is pending). The Principal can search the Department's licensing information about the broker at [www.dre.ca.gov](http://www.dre.ca.gov), by selecting the box captioned "Real Estate License Lookup" and following the directions and entering the information required in the box titled "Public License Information."
- d. California Civil Code Section 2945.1(b)(3) prohibits a Broker from claiming, demanding, charging, collecting or receiving any compensation or advance fee from a person whose residence is in foreclosure until all of the promised services have been fully performed and completed. THIS AGREEMENT MAY NOT BE USED AND SHOULD NOT BE EXECUTED BY THE PRINCIPAL IF A NOTICE OF DEFAULT HAS BEEN RECORDED AGAINST THE SUBJECT PROPERTY LISTED BELOW.

THE PRINCIPAL CERTIFIES BY INITIALING BELOW THAT THE PRINCIPAL HAS READ THE "IMPORTANT NOTICES TO THE PRINCIPAL" PROVIDED ABOVE, AND THAT A NOTICE OF DEFAULT HAS NOT BEEN RECORDED AGAINST THE SUBJECT PROPERTY.

\_\_\_\_\_ Initials of Principal(s)

#### 2. INFORMATION REGARDING THE LOAN(S) AND RELATED PROPERTY ("SUBJECT PROPERTY") FOR WHICH THE LOAN MODIFICATION SERVICES WILL BE PROVIDED:

Lender Name \_\_\_\_\_

Loan Account Number \_\_\_\_\_

Address of Property \_\_\_\_\_

Description of Existing Loan Obligation(s) on the Subject Property \_\_\_\_\_

2<sup>nd</sup> Lender Name \_\_\_\_\_

2<sup>nd</sup> Loan Account Number \_\_\_\_\_

**B. Agreement.**

In consideration of the mutual promises and agreements exchanged, the Broker and the Principal agree as follows:

1. **Amount and Payment of Advance Fee.** The Principal agrees to pay an advance fee of \$2,500 (insert amount) to the Broker on the date this agreement is signed by the Principal, or within 5 days of the execution of this agreement by all parties.
2. **Deposit of Advance Fee and Accounting of Funds.** The Broker will deposit the advance fee into Broker trust account # 40839 40839 (insert account number), located at Telesis Credit Union, 6203 Topanga Canyon Bl, Woodland Hills, CA 91367 (insert name and address of depository). The Broker will provide a verified accounting of these funds to the Principal at the end of each calendar quarter following the execution of this agreement by the Principal, and at the completion or termination of this agreement (whichever occurs first).
3. **Scope and Completion of, and Payment for, Loan Modification Services.** The Broker shall perform the following loan modification services (without limitation) for and on behalf of the Principal. It is understood by the parties that the list below is not exhaustive, and that not all of the services listed below may be relevant to the Principal's loan(s) on the subject property.

**Phase I:**

- A. Interview the Principal, gather and review information about the current loan(s) and terms to include:
  - ❖ Mortgage loan(s) principal balance, monthly payment amount, mortgage statements, loan documents, current interest rate, expected rate and/or payment adjustments, equity, loan(s) payment history and correspondence from the lender(s).
  - ❖ Information about the Principal's income and assets, including:
  - ❖ Paystubs, W2s, 1099s, benefit award letters, retirement and pension benefit statements, annuity statements, child support/alimony, tax returns, profit and loss statements, schedules of real estate owned, stock and mutual fund portfolio statements, bank statements, proof of any other income.
  - ❖ Information about the Subject Property, including:
  - ❖ Property profile, comparable sales, active listings, current property listings and other applicable documents.
  - ❖ Information about the Principal's ability to repay the loan(s), including:
  - ❖ Credit history, hardship circumstances, financial profile (assessment of income, assets, expenses and housing debt to income ratio).
- B. Assist the Principal in preparing a hardship summary/letter.
- C. Prepare and submit loan modification request and package of supporting documents to lender(s).
- D. **Completion of Phase I Services.** The Broker will complete these Phase I services by (insert date), and in no case later than 30 calendar days from the date this agreement is made, as first above written.
- E. **Payment for Phase I Services.** The Broker shall be entitled to 20 percent (but in no event more than 25 percent) of the advance fee (which entitlement percentage for Phase I services equals \$500.00) for the performance of the applicable and relevant services described in Phase I (and others as may be necessary and/or appropriate).

**Phase II:**

Phase II services are focused on the Broker's efforts to vigorously and successfully seek through the Lender(s) an offer to the Principals (which offer shall be assessed by the Broker and clearly explained to the Principals) of proactive loan modification solutions which will provide the Principals with the opportunity to remain in the Subject Property while making affordable loan payments.

- A. Contact the Lender(s) to discuss/negotiate the loan modification request(s) and package of supporting documents.
- B. Communicate regularly with the Lender(s) to attempt to negotiate new, and more favorable, loan terms on

behalf of Principal.

- C. Assist the Principal in understanding and deciding about the modification terms offered by the Lender(s).
- D. Successfully negotiate and/or accomplish a loan modification for the Principal. "Successful loan modification performance" by the Broker shall have occurred if the Principal accepts one or more of the loan modifications set forth below:
- ❖ Change adjustable interest rate to a fixed interest rate
  - ❖ Reduce fixed interest rate to a lower fixed interest rate
  - ❖ Reduce balance of the principal amount of the loan
  - ❖ Reduce adjustable interest rate / reduce CAPS of adjustable interest rate
  - ❖ *Stop upward adjustment of adjustable interest rate*
  - ❖ Arrange for the delinquent payment amounts to be added to the end of loan
  - ❖ Arrange for the delinquent payment amounts to be added to a longer loan period
  - ❖ Arrange for the delinquent payment amounts to be accepted in an alternative payment plan
  - ❖ Eliminate or reduce the delinquent payment amounts
  - ❖ *Arrange for the lender to accept a discounted pay-off or forbearance*
- E. **Completion of Phase II Services.** The Broker will complete these services by \_\_\_\_\_ (insert date), and in no event later than 90 calendar days from the date this agreement is made, as first above written.
- F. **Payment for Phase II Services.** The Broker shall be entitled to 20 percent of the advance fee (the remainder of the advance fee not earned and paid for Phase I services (which entitlement percentage for Phase II services equals \$ 2,000 ) only for the "successful loan modification performance" of these Phase II services as described in Phase II (section d above).
- G. **Refund of Advance Fee Until Earned.** The advance fee paid by the Principal is fully refundable until earned by the Broker. If any of the agreed upon services are not completed by the Broker by the agreed upon completion date(s), the unearned portion of the advance fee will be refunded to the Principal within 5 business days. If this agreement is terminated by the Principal before the agreed upon completion date and before the agreed upon services are completed, the unearned advance fee will be refunded to the Principal within 5 business days.
- H. **Responsibilities and Obligations of the Principal.** The Principal agrees to furnish the Broker with truthful and accurate information and any documents that will be required by the Broker and the Lender(s) to assess the Principal's financial status, including (without limitation) the following:
- ❖ Mortgage Statements-past three months
  - ❖ Paystubs - past two pay periods
  - ❖ W2 forms, 1099 forms, and/or Tax Returns-past 2 years
  - ❖ Profit and Loss Statements-past 2 years (if self employed)
  - ❖ Bank Statements-past 2 months
  - ❖ Verification of any other income, Benefit Award Letters, Retirement Statements, Pension Benefit Statements, Annuity Statements, Child Support/Alimony
  - ❖ Schedules of Real Estate owned, Stock and Mutual Fund Portfolio Statements
  - ❖ Authorization for the Broker to obtain Principal information from Lender
- The Principal also agrees to provide additional information or documentation within 5 days of the Broker's request. The Principal further agrees to immediately notify the Broker of any change in the Principal's address.
- I. **Reasonable Efforts/No Guarantees.** The Broker will make reasonable efforts to conclude a "successful loan modification performance" as described in Phase II above. However, the Principal acknowledges that the Broker cannot guarantee that the Principal's existing lender(s) will agree to a modification of the loan(s),

## VERIFIED ACCOUNTING FOR ADVANCE FEES

Broker (Corporation) Name: Berg Consulting Group Inc., DBA The Loan Modifier.net

Broker Address: 5950 Canoga Avenue, Suite #610, Woodland Hills, CA 91367

Broker Trust Account #: 40839

Depository: Telesis Credit Union, 6203 Topanga Canyon Bl, Woodland Hills, CA 91367

Principal Name:

Principal Address:

Lender Name:

Loan Account Number:

2nd Lender Name:

2nd Loan Account Number:

Advance Fee Accounting				
Advance Fee Amount Received	From (Principal)	Date Received	Date Deposited in trust account	Balance
<b>\$2,500.00</b>				

Services Performed by broker	Date Performed	Amount of fee allocated	Date Disbursed	Balance
All phase I services including:  Loan modification package submitted to lender at address above:  Loan modification package submitted to 2 <sup>nd</sup> lender at address above:				
All phase II services including successful loan modification				

I hereby represent and attest that this is a true and accurate accounting.

Signed

Date

Allen S. Berg, Berg Consulting Group Inc.

01524765

Broker Name

License ID Number